

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

DENNIS CHARLES BENOIT,

Petitioner,

vs.

JOHN FAYRAM

Respondent.

No. C10-2077-LRR

ORDER

This matter is before the court on the petitioner's application for a writ of habeas corpus (docket no. 3). The clerk's office filed such application on February 25, 2011. The petitioner filed a "brief" (docket no. 18) on August 15, 2011. The respondent filed a resistance (docket no. 20) on August 25, 2011. The petitioner filed a reply (docket no. 22) on September 12, 2011. Given the record, the court finds that the matter is fully submitted. For the reasons stated by the respondent, the court concludes that relief under 28 U.S.C. § 2254 is not available to the petitioner. It is clear that the petitioner failed to exhaust the remedies that were available to him. *See* 28 U.S.C. § 2254(b)(1)(A). Further, with respect to the merits of any of the petitioner's claims, the court finds that relief is not warranted. The court's ability to grant habeas relief is limited.

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—


(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. § 2254(d). Here, the petitioner failed to establish either prong. Lastly, with respect to any appeal the petitioner might elect to take, the court concludes that a certificate of appealability under 28 U.S.C. § 2253 is not warranted.

IT IS SO ORDERED.

DATED this 14th day of November, 2011.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA